

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7754**

**BILL NUMBER:** HB 1812

**DATE PREPARED:** Feb 27, 1999

**BILL AMENDED:** Feb 24, 1999

**SUBJECT:** Health Facility Revenues and Enforcement.

**FISCAL ANALYST:** Alan Gossard

**PHONE NUMBER:** 233-3546

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill allows an allegation of breach at a health facility to be made orally or in writing. The bill also requires the State Department of Health to investigate all oral allegations, not just oral allegations that the Department considers to have merit. The bill also makes changes to the terminology and descriptions of the categories of a breach at a health facility.

This bill also increases the penalties for a breach at a health facility. It also requires the State Department of Health to impose the balance of fines or costs assessed against a health facility against the licensee of the health facility if the health facility is unable to pay. It also requires a health facility found to have committed a breach to comply with various notice requirements.

**Effective Date:** July 1, 1999.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** (Revised) This bill changes the sanction and fine structure for enforcement activities of the State Department of Health in the regulation of nursing facilities. Additional state fines collected by the State Department of Health are estimated to be at least \$160,000 to \$640,000 per year. This fine revenue is deposited into the state General Fund.

There were 81 facilities fined during CY97. Applying the new fine structure in this bill to the CY97 breaches and proposed fines results in estimated additional fine amounts of \$198,000 to \$800,000 for CY97. Not included in the estimate, above, the bill also provides for additional fines ranging from \$1,000 to \$10,000 per day until the breach is corrected. For those fines proposed and collected in CY97, about 80% of the amount proposed was eventually collected. If this collection rate continues, additional fine collections may total an estimated \$160,000 to \$640,000, not including the fines that may be imposed per day until the breach is corrected. This fine revenue is deposited into the state General Fund.

Additional sanctions are also authorized by this bill, including the placing of monitors in a health facility at the facility's expense.

After the State Department of Health inspects a facility and discovers breaches, the Department makes recommendations for sanctions to the federal government. If the federal government chooses to proceed and to levy and collect fines (historically, about half of the time, but more often recently), the fine revenue collected by the federal government is deposited into the Civil Monetary Penalty Fund and is to be used for the benefit of nursing facility residents in Indiana. However, if the federal government chooses not to proceed and the State Department of Health proceeds with the enforcement action, the fine revenue is deposited into the state General Fund.

[Note: The bill renames and redefines the various breaches. The Executive Board of the State Department of Health will further define each level of breach. The estimated impact, above, of the new fine structure assumes the new definitions will roughly correspond to the definitions applied in CY97 by the Department.]

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** State Department of Health; Office of Medicaid Policy and Planning

**Local Agencies Affected:**

**Information Sources:** Gerald Coleman, State Department of Health, 233-7022.